

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Martinsburg Division

ROGER D. LOY,

Plaintiff,

v.

Civil Action No.3:08CV13

AMERICA'S FIRST HOME MORTGAGE COMPANY and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,
INC., (MERS), et al.

Defendants.

DEFENDANT AMERICA'S FIRST HOME MORTGAGE COMPANY'S
SECOND STATUS REPORT TO THE COURT

COMES NOW, Defendant, America's First Home Mortgage Company, (hereinafter "America's First"), by counsel, Gregory A. Bailey, Esq., and the law firm of Arnold & Bailey PLLC and files the foregoing Second Status Report to the Court pursuant to this Court's order issued on July 27, 2016.

A. Procedural History

Plaintiff, through his counsel, Aaron Amore, Esq., filed the instant case in Hampshire County Circuit Court alleging predatory lending violations by numerous defendant corporations arising from a refinance loan in July 2006. Although the allegations in the body of the complaint asserted causes of action against numerous defendants to-wit: American Home Mortgage Servicing, Inc.; America

Broker's Conduit; Mortgage Electronic Registration Systems, Inc.; American Home Mortgage Acceptance, Inc.; American Home Mortgage Inc., as well as America's First Home Mortgage Co., only America's First Home Mortgage Company and MERS were identified in the style of the complaint that was served upon America's First Home Mortgage Company.

Upon information and belief, Plaintiff's counsel intended that his complaint was an action against all of the named defendants identified in the body of the complaint even though some of the defendants were not identified in the style of the case.¹ Defendant America's First Home Mortgage Company removed the case to federal court based upon the diversity of citizenship between the Plaintiff and all of the defendants identified in the body of the complaint.

On February 29, 2008, a Suggestion of Bankruptcy was filed in this Court by Robert S. Brady, Esq., with the law firm of Young Conaway Stargatt & Taylor, LLP, informing the court of the automatic stay as to debtors American Home Mortgage Acceptance, Inc.; American Home Mortgage Inc., and American Home Mortgage Servicing, Inc., all of which were named as defendants in the instant lawsuit and all of which had filed bankruptcy petitions in the United States

¹Counsel is unaware of whether any of the other defendants in the case were ever served with process by Plaintiff or his counsel.

Bankruptcy Court for the District of Delaware, which cases were consolidated under Case No. 07-11047. America's First Home Mortgage was not one of the entities named in the Suggestion of Bankruptcy and America's First Home Mortgage did not file the Suggestion of Bankruptcy with this Court. Plaintiff's counsel thereafter filed (and and America's First Home Mortgage Co. agreed to join) in the filing of a motion to stay the proceedings because of the pending bankruptcy proceedings involving certain other defendants named in Plaintiff's lawsuit some of which were the actual lenders of the subject loans. After the Court entered the stay, Plaintiff's counsel was later granted leave to withdraw from the instant case by order dated May 2011, because he was apparently fired by Plaintiff.

B. Status of the Case

The complaint alleges that there was a mistake made in paying off Plaintiff's original loan when Plaintiff refinanced that loan in 2006.² Both the lender of the original loan (American Home Mortgage Servicing, Inc.) and the lender of the subsequent loan (American Home Mortgage Acceptance, Inc.) are parties to the subject bankruptcy.

²Upon information and belief, the loan closing was handled by the law firm of Riley and Cookman, PLLC, and the \$100,000.00 note owed on the original loan with Defendant American Home Mortgage Servicing, Inc., was either not paid or the release of the deed of trust was not filed.

More specifically, according to the complaint, one or both of those entities hold or held the deed of trust and or promissory notes on the subject property. So long as those defendants remain parties to the case, it would seem that the automatic stay would serve to prevent Plaintiff from prosecuting its claim unless Plaintiff seeks an order from the bankruptcy court lifting the provisions of the automatic stay to allow him to move forward with the present case.

It appears that only Defendant America's First Home Mortgage Company has filed an answer to the complaint. America's First Home Mortgage was not the lender of Plaintiff's loan but acted as the mortgage broker to assist Plaintiff in obtaining the loan from the other co-defendant lenders. Defendant America's First Home Mortgage Company is not a subsidiary or affiliate of any of the named defendants that filed for bankruptcy. According to the Clerk of the United States Bankruptcy Court for the District of Delaware, the bankruptcy case remains open through the date of this filing.

Further, it is not clear to this counsel whether America's First Home Mortgage Company continues to be a viable entity. According to the client contact, Mr. Vernon Pledger, the company was either purchased by a successor or

dissolved. Counsel is working to learn the status of the company and the bankruptcy and through email and telephone inquiries to counsel associated with the other co-defendant companies but no additional information is available to the undersigned as of this filing.

Undersigned counsel will timely update the Court as soon as I receive additional information.

Respectfully submitted,

America's First Home Mortgage
Company, Defendant,
By Counsel

/s/Gregory A. Bailey
Gregory A. Bailey, Esquire
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CERTIFICATE OF SERVICE

I, Gregory A. Bailey, counsel for Defendant, America's First Home Mortgage Company, do hereby certify that I have served a true copy of the DEFENDANT AMERICA'S FIRST HOME MORTGAGE COMPANY'S STATUS REPORT TO THE COURT upon the following *pro se* Plaintiff by U.S. Mail, first class, postage prepaid, this 16th day of August, 2016.

Roger D. Loy
HC 61 Box 117C
Capon Bridge, WV 26711

/s/Gregory A. Bailey
Gregory A. Bailey, Esquire